

IN THE SUPREME COURT OF THE STATE OF DELAWARE

HUBERT L. TAYLOR,	§
	§
Petitioner Below-	§ No. 378, 2002
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ C.A. No. 02M-04-090
Respondent Below-	§
Appellee.	§

Submitted: September 27, 2002

Decided: November 4, 2002

Before **WALSH, HOLLAND** and **STEELE**, Justices

ORDER

This 4th day of November 2002, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The petitioner-appellant, Hubert L. Taylor, filed an appeal from the Superior Court's June 19, 2002 order denying Taylor's request for relief from the Superior Court's previous April 24, 2002 order, which denied Taylor's petition for a writ of habeas corpus. We find no merit to the appeal. Accordingly, we **AFFIRM.**

(2) In 1992, Taylor pleaded guilty to second degree burglary and in 1993 was sentenced as an habitual offender to an 8-year prison term pursuant to the Truth in Sentencing Act (“TIS”). At the time of his guilty plea, Taylor was serving concurrent non-TIS sentences for violations of probation (“VOP’s”) in connection with previous convictions for forgery and theft. In accordance with the statutory requirement, the non-TIS probationary sentences were suspended so that Taylor could first complete his TIS sentence.¹ In April 2002, Taylor filed a petition for a writ of habeas corpus in the Superior Court, claiming that he had been deprived of 180 days of good time credit when his VOP sentences were interrupted by his burglary sentence.

(3) In this appeal, Taylor claims that the Superior Court improperly denied his petition for a writ of habeas corpus and deprived him of his right to a hearing and to examine witnesses in connection with his petition.

¹DEL. CODE ANN. tit. 11, § 4216(a).

(4) In Delaware, the writ of habeas corpus provides relief on a very limited basis.² Habeas corpus only provides “an opportunity for one illegally confined or incarcerated to obtain judicial review of the jurisdiction of the court ordering the commitment.”³ “Habeas corpus relief is not available to ‘[p]ersons committed or detained on a charge of treason or felony, the species whereof is plainly and fully set forth in the commitment.’”⁴

(5) In this case, Taylor makes no claim of a jurisdictional defect. Moreover, while he alleges that he was deprived of good time credits, he provides no factual support for that claim. Finally, it appears that Taylor has been released from prison and is currently serving a probationary sentence at Level II. As such, he is not a person “imprisoned or restrained of liberty” within the meaning of the statute governing habeas corpus⁵ and his request for habeas corpus relief is moot. Habeas corpus relief, therefore, is not available to Taylor and the Superior Court was correct in so deciding.

²*Hall v. Carr*, 692 A.2d 888, 891 (Del. 1997).

³*Id.*

⁴*Id.* (quoting DEL. CODE ANN. tit. 10, § 6902(1)).

⁵ DEL. CODE ANN. tit. 10, § 6902(1).

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland
Justice